

DOCKETED

Docket Number:	79-AFC-04C
Project Title:	Compliance - Application for Certification of DWR Bottlerock Geothermal Project
TN #:	201165
Document Title:	BRPP Prehearing Statement
Description:	Applicant's Prehearing Statement
Filer:	Kimberly Hellwig
Organization:	Stoel Rives LLP
Submitter Role:	Applicant Representative
Submission Date:	11/12/2013 11:28:52 AM
Docketed Date:	11/12/2013

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

BOTTLE ROCK POWER, LLC

**BOTTLE ROCK GEOTHERMAL
POWER PLANT**

Docket No. 79-AFC-4C

Docket No. 12-CAI-04

**BOTTLE ROCK POWER, LLC'S PREHEARING STATEMENT, RESPONSES TO
COMMITTEE'S INQUIRIES, WITNESS LIST, AND EXHIBIT LIST**

November 12, 2013

John A. McKinsey, Esq.
Locke Lord LLP
500 Capitol Mall, Suite 1800
Sacramento, CA 95814
Phone: (916) 930-2527
Facsimile: (916) 720-0443

Kristen Castaños, Esq.
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
Phone: (916) 447-0700
Facsimile: (916) 447-4781

Attorneys for BOTTLE ROCK POWER, LLC

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

BOTTLE ROCK POWER, LLC

**BOTTLE ROCK GEOTHERMAL
POWER PLANT**

Docket No. 79-AFC-4C

Docket No. 12-CAI-04

**BOTTLE ROCK POWER, LLC'S PREHEARING STATEMENT, RESPONSES TO
COMMITTEE'S INQUIRIES, WITNESS LIST, AND EXHIBIT LIST**

Pursuant to the Committee's November 5, 2013 Notice of Committee Hearing, Committee Conference and Hearing Orders, Bottle Rock Power, LLC ("BRP" or "Bottle Rock") herein submits the following prehearing statement in advance of the Committee Hearing on BRP's Petition to Amend ("PTA"), which seeks modification of Order Number 01-0530-07, issued May 30, 2001 (hereinafter referred to as the "2001 Order"), related to the Bottle Rock Geothermal Power Plant ("BRPP").

I. INTRODUCTION AND SUMMARY OF PROCEEDING TO DATE

BRPP is a renewable energy facility that has been reliably producing clean power since 2007. As discussed at length in BRP's PTA, BRP seeks modification of the 2001 Order, which transferred ownership of the BRPP from the California Department of Water Resources ("DWR") to the Bottle Rock Power Corporation. Since 2001, the Commission has approved a subsequent Petition to Amend, which transferred ownership of BRPP from Bottle Rock Power Corporation to Bottle Rock Power, LLC. (*See* Commission Order No. 06-1213-12). As has been widely debated, the 2001 Order purportedly set forth a "condition of certification" that

required DWR and Bottle Rock Power Corporation to “strictly adhere to the terms of the ‘Purchase Agreement for the Bottle Rock Power Plant and Assignment of Geothermal Lease.’” (The 2001 Order at p. 4.). Such “terms” included the maintenance of a \$5 million bond for purposes of funding decommissioning activities. However, as reflected in the pleadings and other documents submitted in this proceeding, BRP filed the instant PTA because various conditions have changed since ownership of the project by Bottle Rock Power Corporation and because the maintenance of a bond is no longer warranted.

After BRP filed the PTA, Staff issued one round of data requests, to which BRP responded. In addition, on September 6, 2013, Staff issued an assessment of the PTA, which recommended, among other things, that a surety bond with an initial obligation amount of \$4.13 million be established, a \$10 million environmental impairment liability insurance policy be maintained, and Staff’s proposed conditions of certification be adopted. BRP disagreed with Staff’s position on the bond proposal and expressed this during the Staff Workshop on October 4, 2013.

During the October 4, 2013 Staff Workshop, BRP continued to maintain that there is no longer a valid basis for requiring a decommissioning bond. BRP also provided information and comment on staff’s calculation of the costs of decommissioning. BRP maintains that the July 29, 2013 Bottle Rock Power Plant Decommissioning Estimate prepared by Plant Reclamation (“July 29, 2013 Estimate”) is the only current, valid and appropriate estimate of the cost of closure and decommissioning. Subsequently, on October 28, 2013, Staff published its “Response to Comments Received Regarding Staff’s Analysis of the Bottle Rock Power Plant Petition to Amend.” Therein, Staff revised its recommendation and analysis to accept, in part, BRP’s July 29, 2013 Estimate. In short, Staff reduced its recommendation for a bond amount of \$4.13

Million to just under \$2.7 Million. While Staff accepted BRP's cost estimate for closure, Staff did not allow for salvage credit, and added a 25 percent contingency and an estimated cost for infill of the turbine generator building; an approach with which BRP wholly disagrees.

II. COMMITTEES QUESTIONS TO PARTIES

The Committee's Notice of Committee Hearing, Committee Conference and Hearing Orders, dated November 5, 2013, set forth specific items to which each party was required to respond. BRP responds to each of the items below.

A. State the outcomes BRP desires, including any legal authority supporting that outcome.

Because the bases for the 2001 Order requiring a bond have changed substantially, BRP desires that the bond requirement be removed and that the conditions relating to closure and decommissioning set forth in the PTA be approved. As BRP has maintained throughout this proceeding, BRP believes no bond is required for closure and decommissioning of a facility that has a proven operating record and an estimated useful life of twenty to thirty years. Indeed, BRPP should now be treated like most other operating power plants licensed by the CEC, and BRP should no longer be obligated to secure the costs of decommissioning with a bond. As set forth in the PTA, BRP seeks an order that terminates the requirement for BRP to maintain a \$5 million bond,¹ and requests that new conditions be approved requiring BRP to prepare closure and decommissioning plans, and a decommissioning funding plan for CPM approval, as set forth in the PTA. (*See* Petition to Amend at pp. 6-9 (TN#69880).) This proposal is reasonable and

¹ In fact, BRP is requesting termination of the condition in the 2001 Order requiring the Project Owner to "strictly adhere to the terms of the 'Purchase Agreement for the Bottle Rock Power Plant and Assignment of Geothermal Lease'" to the extent that condition has been interpreted to require BRP to maintain a \$5 million bond.

consistent with the CEC's typical approach to closure requirements, which generally does not provide for closure funding at all.

BRP's reason for this request is that the circumstances that existed in 2001 when the bond obligation was imposed², no longer exist and there is "new information that changes or undermines the assumptions, rationale, findings, or other bases of the" 2001 Order. (Title 20, Cal. Code Regs. § 1769(a)(1)(D).)

The 2001 Order makes clear that the basis for requiring a decommissioning bond is that "given the facility's poor performance history, the proposed acquisition by the Bottle Rock Power Corporation could be considered a highly speculative business transaction. Additionally, the Bottle Rock Power Corporation was only recently formed and its financial capability to fund decommissioning activities is uncertain." (2001 Order at p. 2.) As set forth in the Direct Testimony of Brian Harms, the facility no longer has a poor performance history and has been operating reliably since April 2007. The Project has been operating longer than DWR operated the facility and doing so with excellent reliability and availability. The Project has an availability of 96 percent, which is comparable to a reliable base-load natural gas-fired facility. The California Public Utilities Commission recently approved a new Power Purchase Agreement for the Project, with PG&E as the off-taker, with a maximum twenty (20) year term to the year 2032. Moreover, the steam field that supports the facility operates under a valid Lake County use permit that was recently extended to June 26, 2043 (UPX 12-02) and the Project benefits from a Lake County use permit to expand the steam field with a term to December 22, 2040 (UP 09-01). The facility, therefore, should no longer be considered a "highly speculative business

² For lack of a better term, BRP uses the word "imposed". As noted in footnote 1, however, the 2001 Order required adherence to the Purchase Agreement, and that Purchase Agreement contained an obligation to maintain a bond.

transaction.” In addition, unlike the buyer at the time of the 2001 Order, the current owner has a proven ability to reliably operate the facility, and has been doing so since 2007. Thus, the conditions that prompted the Commission to be concerned about financial assurance for facility closure in 2001 no longer exist and any requirements to maintain a decommissioning bond should be removed. The Project Owner has no debt at this time. The Project Owner does require, however, additional capital for purposes of funding the steam field expansion, which is required to satisfy the long-term obligations of the Power Purchase Agreement. The bond obligation represents an obstacle to raising expansion capital for BRPP and is an unproductive and inefficient use of limited capital which would be better spent to increase BRPP’s output. For these reasons, BRP seeks removal of the bond requirement and approval of conditions that allow BRP to submit a Decommissioning Funding Plan to the CPM for approval, and allow for the costs of decommissioning to be funded over time.

B. State Whether BRP Desires Any Changes to the Project’s Conditions of Certification, and Propose such Changes.

As set forth above and in BRP’s Direct Testimony, the intent of BRP’s Petition to Amend is to remove any bond requirement on the Project, whether as set forth in a Commission order or as may be set forth in Staff’s recommended Conditions of Certification. To that end, BRP opposes Staff’s recommended Conditions of Certification, COM-15 and COM-16. BRP desires adoption of BRP’s proposed conditions (COM-1 through COM-4) set forth in the PTA.³ In addition, BRP provides recommended revisions to Staff’s recommended condition COM-13.⁴

³ To the extent the Committee determines to approve requirements similar to staff’s proposed COM-15 and COM-16, however, BRP has provided recommended revisions to those conditions in Attachment A, hereto.

⁴ BRP provides its requested modifications to conditions COM-13, COM-15 and COM-16 using **bold, underlined** and ~~striketrough~~ text.

1. BRP's Modifications to COM-13

Condition of Certification COM-13 is set forth in Staff's Analysis of the Proposed Modification to the Compliance Conditions of Certification. While BRP does not oppose the language set forth in its entirety, of concern to BRP is the timing component. BRP understands and agrees the importance for ensuring notification of certain incidents. However, it may not be practical or feasible to notify the CPM within one hour of certain events. To that end, BRP suggests a more reasonable time-frame of twenty-four (24) hours, as set forth below. In addition, incident reports may not be complete for days or weeks, depending on the nature of the incident. To that end, BRP suggests a more reasonable timeline for submitting such incident reports as set forth below.

COM-13: Incident Reporting Requirements

Within ~~one (1)~~ **twenty-four (24)** hours, the project owner must notify the CPM or compliance office manager (COM), by telephone *and* e-mail, of any incident at the power plant or appurtenant facilities that results or could result in any of the following:

1. reduction in the facility's ability to respond to dispatch (excluding forced outages caused by protective equipment or other typically encountered shutdown events);
2. health and safety impacts on the surrounding population;
3. ~~property damage off-site;~~
4. response by off-site emergency response agencies;
5. serious on-site injury;
6. serious environmental damage; or
7. emergency reporting to any federal, state, or local agency.

The notice must describe the circumstances, status, and expected duration of the incident. If warranted, as soon as it is safe and feasible, the project owner must implement the safe shutdown of any non-critical equipment and removal of any hazardous materials and waste that pose a threat to public health and safety and to environmental quality (also, see specific conditions of certification for the technical areas pertaining to Air Quality; Public Health, Solid Waste Management and Safety).

Within ~~one (1) week~~ **ten (10) business days** of the incident, the project owner must submit to the CPM a detailed incident report, which includes, as appropriate, the following information:

1. a brief description of the incident, including its date, time, and location;
2. a description of cause of the incident, or likely causes if it is still under investigation;
3. the location of any off-site impacts;
4. description of any resultant impacts;
5. a description of emergency response actions associated with the incident;
6. identification of responding agencies;
7. identification of emergency notifications made to other federal, state, and/or local agencies;
8. identification of any hazardous materials released and an estimate of the quantity released;
9. a description of any injuries, fatalities, or property damage that occurred as a result of the incident;
10. fines or violations assessed or being processed by other agencies;
11. name, phone number, and e-mail address of the appropriate facility contact person having knowledge of the event; and
12. corrective actions to prevent a recurrence of the incident.

The project owner must maintain all incident report records for the life of the project, including closure, and must provide copies of all relevant data within 24 hours of a CPM request until Energy Commission certification is revoked or cancelled.

C. BRP’s Witness List, Estimates for Direct Examination of Witnesses and Summary of Direct Testimony

BRP has identified the following witnesses to testify in person at the hearing on November 18th, as necessary. The identified witnesses will be present at the Committee Hearing and available for cross-examination. BRP reserves the right to call additional witnesses, as needed, based on the testimony and witnesses identified by other parties should BRP need to counter such testimony and witnesses.

1. Witness List and Time Estimates for Direct Examination of Witnesses

Witness

Brian Harms

Estimated Time for Direct Examination

BRP will require no more than 10 minutes for direct examination of Mr. Harms, if necessary. Mr. Harms will be available for cross-examination on the day of the hearing. Mr. Harms’ testimony is summarized below.

Fred Glueck BRP will require approximately 30 minutes for direct examination of Mr. Glueck. Mr. Glueck will be available for cross-examination on the day of the hearing. A summary of Mr. Glueck's testimony is set forth below.

Robert Francisco BRP does not intend to directly examine Mr. Francisco, unless necessary. Mr. Francisco will be available for cross-examination on the day of the hearing. A summary of Mr. Francisco's testimony is set forth below.

2. Summary of Brian Harms' Testimony

Brian Harms will testify as to the nature and character of the Project Owner, the facility condition and operating history, and status of existing permits and decommissioning obligations.

3. Summary of Fred Glueck's Testimony

In response to the Staff's proposed conditions, as set forth in the Staff Response to Comments Received Regarding Staff's Analysis of the Bottle Rock Geothermal Power Plant, Fred Glueck will testify as to the costs of decommissioning BRPP. Mr. Glueck will testify as to his qualifications to estimate the cost of decommissioning and the salvage and reuse value of the facility. Mr. Glueck will also testify that he prepared the Bottle Rock Power Plant Decommissioning Estimates dated April 15, 2013 and July 29, 2013 and provide testimony related to those estimates.

4. Summary of Robert Francisco's Testimony

Robert Francisco will testify that he represents the landowner of the site and that the landowner desires that the turbine generator building remain in place following closure and decommissioning of the power plant.

D. BRP's Request to Cross-Examine Other Parties' Witnesses

At this time, BRP is unable to identify any party's witnesses for cross-examination. Therefore, BRP reserves the right to submit a Revised Prehearing Statement on or before November 15th and will identify such witnesses therein, if needed.

E. Time Required for Oral Argument

BRP requests 30 minutes for oral argument.

F. Whether the Committee's Decision will Benefit from Post-Hearing Briefing.

At this time, BRP is unable to determine whether the Committee's Decision will benefit from post-hearing briefing. BRP reserves the right to request or suggest post-hearing briefing following the hearing.

G. BRP's Position on the "Unofficial Compilation of the Conditions of Certification Filed by Staff.

BRP does not have any proposed modifications to the conditions set forth in the compilation of conditions docketed by Staff on September 6, 2013 (TN# 200475), as Staff appears to have corrected in its Response to Comments document (*see* TN# 201062) any minor modifications BRP would have suggested.

III. BRP'S PROPOSED EXHIBIT LIST

Below, BRP presents its initial list of proposed exhibits. At this time, BRP reserves the right to revise this proposed list to add or withdraw exhibits if needed. As directed in the Committee's Revised General Order, dated October 23, 2013, BRP has identified the Commission's docketing transaction number ("TN#") for each document presented below.

Exhibit	TN#	Brief Description
1	69879	BRP's Petition to Amend, docketed March 8, 2013
2	69915	BRP's Compliance with the Committee's Decision Sustaining Complaint Against Bottle Rock Power, LLC
3	70304	BRP's Letter to Assigned Committee re Decommissioning Estimate, docketed April 15, 2013
4	71018	BRP's Response to Staff's Issues Identification Report, docketed May 29, 2013
5	71455	BRP's Letter to the Assigned Committee re Request for Extension of Stay of Filing Surety Bond, docketed June 28, 2013
6	71652	BRP's Objections to Staff's Data Requests, Set 1, docketed July 18, 2013
7	200053	BRP's Responses to Staff's Data Requests, Set 1, docketed July 29, 2013
8	200146	BRP's Petition to Amend Status Report No. 1, docketed August 9, 2013
9	200630	BRP's Status Report No. 2, docketed September 27, 2013
10	200714	BRP's Initial Comments on Staff Assessment, docketed October 2, 2013
11	200826	BRP's Updated Status Report, docketed October 10, 2013
12	200785	Letter from Congressman Thompson re Proposed Amendment to Compliance Conditions Relating to Financial Assurance, docketed October 7, 2013
13	200834	BRP's Supplemental Comments on Staff Assessment, docketed October 11, 2013
14	201128	Lake County's Comments in Proceeding 12-CAI-04, docketed January 11, 2013, including Lake County's Exhibit 602 in Proceeding 12-CAI-04 ("County of Lake Bonds for the Bottle Rock Power Site")
15	201127	Amended and Restated Geothermal Lease and Agreement (w/ Scope of Decommissioning), dated August 2012 (Exhibit 111 in Proceeding 12-CAI-04)
16	201140	Use Permit Bonds Related to the BRP GeoResources Steamfield Project
17	201139	Lake County Conditional Use Permit Extension (UPX 12-02, Addendum to Use Permit UP 85-27, expiration date June 26, 2043), dated July 17, 2013 and Lake County Conditional Use Permit 09-01 (expiration date December 22, 2040), dated August 9, 2012
18	201155	BRP's Direct Written Testimony of Brian Harms
19	201154	BRP's Direct Written Testimony of Robert Francisco
20	TBD	BRP's Prehearing Statement

IV. CONCLUSION

Bottle Rock looks forward to participating in the Committee Hearing, currently scheduled for November 18, 2013 and is confident that these proceedings will provide an opportunity for the parties to resolve any outstanding issues.

Dated: November 12, 2013

By: // ORIGINAL SIGNED \\

Kristen T. Castaños
Attorneys for Bottle Rock Power, LLC

ATTACHMENT A

Staff proposed Condition of Certification (“COC”) COM-15 describes the procedures for and contents of required closure plans. In various locations throughout COM-15, reference is made to “long-term, post-closure maintenance” or similar post-closure activity. The CEC does not retain jurisdiction over the Project post-closure and, therefore, any references to post-closure activity or requirements should not be include in the COCs. COM-15 would also require that closure cost estimates be projected assuming closure “at a time in the facility’s projected life span when the mode and scope of facility operation would make permanent closure the most expensive.” There is no basis for assuming closure costs based on a projected worst-case in time scenario, particularly given that COM-15 requires that the estimate be updated every three years. Additionally, COM-15 prohibits the use of salvage value to estimate closure costs. As will be set forth in the testimony of Fred Glueck, such a requirement is arbitrary and contrary to actual decommissioning practice. Ignoring salvage value in the cost estimate ignores a key component of the true cost of closure and decommissioning, and will result in significantly overstating the actual cost of decommissioning. Moreover, BRP asserts that if a decommissioning bond is to be required, the appropriate estimated cost of decommissioning is \$709,000. Based on these comments, BRP has the following proposed revisions to COM-15 and COM-16 in the event the Committee deems it appropriate to impose such conditions.

COM-15: Closure Planning

To ensure that a facility’s closure and long-term maintenance do not pose a threat to public health and safety or to environmental quality, the project owner must coordinate with the Energy Commission to plan and prepare for eventual permanent closure.

A. Provisional Closure Plan and Estimate of Permanent Closure Costs To assure adequate facility closure, the project owner must submit a Provisional Closure Plan and Cost Estimate (Provisional Closure Plan), for CPM review and approval. The project owner must submit the Provisional Closure Plan within sixty (60) days after the Commission’s decision. Costs estimated within the Provisional Closure Plan must consider all applicable final closure plan requirements delineated below, including interim and post-closure site maintenance, and reflect:

1. all relevant operation, maintenance, and administrative costs for all reclamation, including indirect costs, insurance coverage, and inflation
2. ~~facility closure costs at a time in the facility’s projected life span when the mode and scope of facility operation would make permanent closure the most expensive;~~
3. the use of an independent third party to carry out the permanent closure; ~~and~~
4. ~~no use of salvage value to offset closure costs.~~

A closure/decommissioning services consultant should prepare the Provisional Plan, and must provide for a phased closure process, including but not be limited to:

1. comprehensive scope of work and itemized budget;
2. closure plan development costs;
3. dismantling and demolition;
4. recycling and site clean-up;
5. mitigation and monitoring direct, indirect, and cumulative impacts;
6. site remediation and/or restoration;
7. interim operation ~~and post-closure~~ monitoring and maintenance, including long-term equipment replacement costs; and
8. contingencies.

The project owner must include an updated Provisional Plan in every third year Annual Compliance Report for CPM review and approval. Each Provisional Plan update must reflect the most current regulatory standards, best management practices, applicable LORS, and an updated facility closure cost estimate.

B. Final Closure Plan

Three (3) years prior to initiating a permanent facility closure, the project owner must submit for CPM review and approval, a Final Closure Plan (Final Plan), Final Plan contents include, but are not limited to:

1. a statement of specific Final Closure Plan objectives;
2. a statement of qualifications and resumes of the technical experts proposed to conduct the closure activities, with detailed descriptions of previous power plant closure experience;
3. identification of any facility-related installations not part of the Energy Commission certification, designation of responsible parties, and an explanation of what will be done with the installations after closure;
4. a comprehensive scope of work and itemized budget for permanent plant closure, with a description and explanation of methods to be used, broken down by phases, including, but not limited to:
 - a. dismantling and demolition;
 - b. recycling and site clean-up;
 - c. impact mitigation and monitoring;
 - d. site remediation and/or restoration;
 - e. ~~post-closure maintenance; and~~
 - f. contingencies.
5. a revised/updated cost estimate for all closure activities, by phases, including ~~long-term, post-closure~~ site monitoring and maintenance costs, and replacement of ~~long-term post-closure~~ equipment;
6. a schedule projecting all phases of closure activities for the power plant site and all appurtenances constructed as part of the Energy Commission licensed project;

7. an electronic submittal package of all relevant plans, drawings, risk assessments, and maintenance schedules and/or reports, including an above- and below-ground infrastructure inventory map and registered engineer's or delegate CBO's assessment of demolishing the facility; additionally, for any facility that permanently ceased operation prior to submitting a Final Closure Plan and for which only minimal or no maintenance has been done since, a comprehensive condition report focused on identifying potential hazards;
8. all information additionally required by the facility's conditions of certification applicable to plant closure;
9. an equipment disposition plan, including:
 - a. recycling and disposal methods for equipment and materials; and
 - b. identification and justification for any equipment and materials that will remain on-site after closure;
10. a site disposition plan, including but not limited to:
 - a. proposed rehabilitation, restoration, and/or remediation procedures, as required by the conditions of certification and applicable LORS,
 - b. long-term site maintenance activities, and
 - e. ~~anticipated future land use options after closure;~~
11. identification and assessment of all potential direct, indirect, and cumulative impacts and proposal of mitigation measures to reduce significant adverse impacts to a less-than-significant level; potential impacts to be considered shall include, but not be limited to:
 - a. traffic
 - b. noise and vibration
 - c. soil erosion
 - d. air quality degradation
 - e. solid waste
 - f. hazardous materials
 - g. waste water discharges
 - h. contaminated soil
12. identification of all current conditions of certification, LORS, federal, state, regional and local planning efforts applicable to the facility, and proposed strategies for achieving and maintaining compliance ~~during closure;~~
13. updated mailing list or listserv of all responsible agencies, potentially interested parties, and property owners within one (1) mile of the facility;
14. identification of alternatives to plant closure and assessment of the feasibility and environmental impacts of these; and
15. description of and schedule for security measures and safe shutdown of all non-critical equipment and removal of hazardous materials and waste (see conditions of certification for Public Health, Solid Waste Management and Safety).

If a CPM-approved Final Closure Plan is not ~~implemented~~ **initiated** within one (1) year of its approval date, it must be updated and re-submitted to the CPM for supplementary review and approval. If a project owner initiates but then suspends closure activities, and the suspension continues for longer than one (1) year, or subsequently abandons the facility, the Energy Commission may access the required financial assurance funds to complete the closure. The project owner remains liable for all costs of contingency planning and closure.

COM-16

A. Financial Assurance Mechanism: Surety Bond

The project owner must provide financial assurances to the Energy Commission, guaranteeing adequate and readily available funds to finance interim operation, **and** facility closure, ~~and post-closure site care~~, as needed.

Within thirty (30) days following CPM approval of the project owner's first Provisional Closure Plan, pursuant to COM-15, the project owner must establish an irrevocable closure surety bond ~~and standby trust fund~~. The surety bond must guarantee the project owner's performance of closure, as specified in the Provisional Closure Plan. The bond's obligation amount is initially set at ~~\$4.13 \$2,698,750~~ **\$709,000.00** and must subsequently be adjusted in the amount of the CPM approved Provisional Closure Plan.

~~The standby trust fund shall have as its Beneficiary the California State Energy Resources Conservation and Development Commission.~~

Within sixty (60) days of CPM approval of each triennial Provisional Closure Plan prepared pursuant to COM-15, the surety bond amount shall be adjusted to reflect any change in estimated costs, and within thirty (30) days of any adjustment, the project owner must submit for CEP review and approval all documentation of the adjustment.

The project owner must report the current value of the bond ~~and standby trust fund~~ in the Annual Compliance Report.

Using surety bond funds to implement closure may not fully satisfy the project owner's obligations under these conditions.

Provisions from the California Bond and Undertaking Law, as well as other statutory and case law may be applicable.